

MY OBJECTION TO RECOMMENDATION OF THE MAGISTRATE

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA

Cause No.: 2:07-cv-00641-WHA-WC

(I DROVE DOWN HERE TODAY AUG 18TH 2007)

Karl Lentz,

as a Trustee - and as his attorney-in-fact.

Sui Juris in Propria Persona

"In my own flesh and blood."

"one not under the control of another."

Plaintiff-Petitioner,

8/18/7 ~~Ivor D. Groves,~~

8/18/7 ~~MIDDLE DISTRICT COURT APPOINTED~~
~~THE U.S. PROBATION OFFICE~~ Monitor

8/14/7 & ~~amex~~

8/18/7 ~~THE ALABAMA DEPARTMENT OF HUMAN~~
~~RESOURCES,~~

8/18/7 Acting in behalf of the Federal Government

8/18/7 &

8/18/7 ~~THE FEDERAL BUREAU OF~~
~~INVESTIGATION~~

The State of ALABAMA,

Et-al.

Defendant-Respondent.

NOT in The original
submission 8/18/7

~~Falsifying evidence and submitting false evidence to federal and state~~
~~agents and state courts~~ Verified Complaints for Patterns of: Denials
and Violations of Civil Rights, Neglect to Prevent the Same, Willful
Discrimination, Disparate Taxation, and Reckless or Negligent
Government Mismanagement; and, Verified Petition for Damages and
Certain Remedial Actions, Willful Failure to Provide Due Process of
Rights. Willful and Malicious Prosecution, Libel and Slander, which
led to Denial of Lawful Property.

('Forum Non Conveniens')

(Request for Three-Judge Panel)

(Demand for Jury Trial)

(1)

This is for the objection in fed court

Honorable WALLACE CAPEL JR.

I need to clarify the purpose of submitting the "lawsuit" I filed a few weeks ago. The lawsuit was basically a request for the ability to be considered as "CLASS ACTION" lawsuit; that my Family has not suffered alone at the improprieties of the JCDHR, but the constant and continuous due process violations are 'normal' practice and procedure. As I am not a resident of the STATE of ALABAMA, I had driven down from Virginia and, please remember that I am not a member of the Bar Association, nor is this in my field of expertise, I forgot to fill out a "JS-44" Civil Cover Sheet therefore, the box was left unchecked stating that this is to be considered a class action Under F.R.C.P. 23

a). My wife, Mary Kaye Mangina-Lentz, who has also been done wrong by these acting federal agents as well by FBI Agents/State Officials/Employees of Alabama. My wife and others may feel the need to be compensated as well, so with the Request for a "Class Action" Lawsuit already in place or granted, the framework will be in place for her and others as well. *(the Social Workers within the state of Alabama and Jefferson County Department of Human Resources are considered federal agents per Code of Alabama 38-2-6, which states that since they were put on FEDERAL Probation in Aug of 1991 the ALABAMA DHR Division, is now under the Jurisdiction of the Federal Government as per the time when these crimes against me, and my family were committed ;*

Section 38-2-1

State Department of Human Resources.

There is hereby created a State Department of Human Resources, with subordinate bureaus and divisions which shall operate under a State Board of Human Resources and consist of a Commissioner of Human Resources and such other officers and employees as are authorized to be appointed under this chapter.

Section 38-2-6

Duties, powers, and responsibilities of state department.

The aim of the state department shall be the promotion of a unified development of welfare activities and agencies of the state and of the local governments so that each agency and each governmental institution shall function as an integral part of a general

system. In order to carry out effectively these aims, it shall be the duty and responsibility of the state department to:

(5) Act as the agent of the federal government in welfare matters of mutual concern, and in the administration of any federal funds granted to the state to aid in the furtherance of any of the functions of the state department, and be empowered to meet such federal standards as may be established for the administration of such funds.

b). We may not be the only family and/or individuals who are similarly situated, and will not have the where-with-all, to challenge such a formidable foe, that as long as an "action" exists, that others may realize that if they are in a similar situation, that they might learn and gather hope that they are not alone.

2). I will only need the testimony of one (1) Judge from the Jefferson County Family Court System. A motion submitted by Alan Summers, Jr in October 2006 clearly and consistently demonstrates how the JCDHR employees, in collusion with the Jefferson County Family Court, systematically and perpetually denied me, my wife, and my children his/her *due process rights* by intentionally falsifying evidence and Under Color of Law, influenced the Court and aggressively prohibited our ability to obtain evidence being used against us; the ability to review transcripts (none exist) and, maneuvered hearings in such a way that our defense attorneys were denied (1) the ability to present evidence in our behalf and, (2) the ability to be *present at all hearings*.. (exhibit _____) .

a). Due to our persistence in seeking out access to our court and DHR-case file (s), Judge Herford finally GRANTED our request in the Spring of 2006 and informed the Court - the attorney's and the representatives of the JCDHR present, to grant us access to the evidence, as per Code of Alabama 1975 26-14-7.1 (e)(f)(g) (see Exhibit _____)

b). However, in a direct violation of said order, the Court-Appointed Attorneys, currently Tom Conboy and Mari Morrison, have repeatedly denied us the ability to be allowed to view/ examine / copy the U.S./Alabama Case file. According to these two court-appointed lawyers, there is "*no need*" to peruse the alleged charges against us, that "*...this is now, that was then...*" and we should not be concerned with the false reports but to move forward.. Tom Conboy and Mari Morrison have stated that it is unnecessary to correct the wrong-doings of the 10th circuit court during our past sixteen(16) hearings and/or trials - *some in which we were not permitted to be in attendance*.

3). I was working on finishing the Complaint, or stating my claim, when I was told to come down here to Alabama, for a trial (exhibit _____)

a). My attorney failed to subpoena the five (5) witnesses I requested even though three(3) of the witnesses worked in the court building where the trial was to be

held. The witnesses, which include an FBI Agent and a Department of Justice attorney, who both informed us what the Fed/Alabama DHR agents were doing was illegal.

b). My attorney, Tom Conboy, stated in an email, that it was unnecessary for us to meet and discuss this case because the STATE of ALABAMA was not sending in the Prosecuting Attorney to challenge us; this proved to be untrue.

c). My attorney, Tom Conboy, along with my wife's lawyer, Mari Morrison, never discussed a defense or the case *period*. The only recommendations relayed by our court-appointed lawyers was to tell us "...just do everything the Fed/Alabama DHR agents tell you to do ...", despite the fact that they possessed information that exonerated my wife and I from the false "evidence" that had been presented and proving, beyond a shadow of doubt that my wife and I never engaged in any activity that put any infant/child in danger.

d). Tom Conboy, my court-appointed attorney, in an e-mail (exhibit____) TOLD me "that there will be no surprises" at the August 2, 2007 hearing, however :

(1). I was told that the State's Prosecuting Attorney, Jonathon Schlenker, would not be in attendance. Jonathon Schlenker, however, did appear. Mr Conboy failed to prepare a defense, failed to discuss the case with his client - ever ; and failed to subpoena witnesses in his client's behalf.

(4). The court order states that I am not allowed to return HOME for "30" Days.

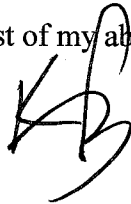
(a). My children are to go to my family's home in Virginia, which I had been requesting/demanding for six (6) years. The false evidence presented and submitted by the JCDHR agents influenced and convinced the Court, State Officials and other Federal Agents that my family made the the Charles Manson family look like saints. JCDHR agents went so far as to accuse my Mother of all types of heinous crimes, including but not limited to crimes of : drug abuse, alcohol abuse , child abuse, and failure to report crimes. Upon learning of these false allegations, my mother, Patricia Garner-Russo was forced to file a slander/libel lawsuit in your middle district court in August of 2006.
(see Exhibit ____)

(i). My mother, Pat Garner-Russo, has an impeccable record of service of working for the Federal Gov't in the capacity of a I.R.S auditor for years. I am sure her security clearance when she left the I.R.S. is higher then most of your Federal Agents.

(ii). I did not receive notification from your office in a timely manner because I am not currently residing at my home, as a direct result of the aforementioned court-order.

Since it has been court-ordered that I am not allowed to go home for another two and a half weeks, (exhibit ____), it is impossible for me to get all the paperwork, my computer, my printer, and access to the internet in which I need to finish, as per your request, to "state a claim". Therefore, I respectfully request a 45-day extension to complete my "claim" and submit it, to the best of my ability, in an organized and logical format.

Sincerely,



Karl R. Lentz
710 Augusta Farms Road
Waynesboro, VA 22980

540-908-4345
540-337-4567

p.s.

After I actually submit/deliver to the clerk of court all the evidence and my Actual complaint, again may I state I was only submitting a request for it to be accepted as a "CLASS ACTION" suit....

When after you get "MY" evidence/complaint, my response to the right of 11th amendment immunity will look something like this....But again I beseech you to understand I am NOT an attorney, and it would be nice for someone to other then just "shoot" me down, to appoint an attorney to "help" me, you, us, them, Get through this as honorably, quickly and as civilly as possibly. Good day and God bless

When I do get to my computer sent down from Virginia, again I will assure you, it will look something like this;

Damages under Eleventh Immunity

. Official Capacity

Suing individuals in their official capacities is "another way of pleading an action against an entity of which an officer is an agent." Graham, 473 U.S. at 165, 105 S. Ct. at 3105. A state, a state agency, and a state official sued in his official capacity are not "persons" within the meaning of § 1983, thus damages are unavailable; but a state official sued in his official capacity is a person for purposes of § 1983 when prospective relief, including injunctive relief, is sought. Will

v .

Michigan Dep't of State Police, 491 U.S. 58, 71, n. 10, 109 S. Ct. 2304, 2312, n. 10, 105 L. Ed.

2d 45 (1989). *Edwards v. Wallace Community College*, 49 F.3d 1517, (11th Cir. 1995)

Another sanction might be to fine the recalcitrant official. "Civil contempt may . . . be punished by a remedial fine, which compensates the party who won the injunction for the effects

of his opponent's noncompliance If [a state official] refuses to adhere to a court order, a

financial penalty may be the most effective means of insuring compliance." [Hutto v. Finney, 437

U.S. 678, 691, 98 S. Ct. 2565, 2573, 57 L. Ed. 2d 522 (1978).] Newman, 683 F.2d at 1318

(citation omitted). *Wyatt v. Fetner*, 92 F.3d 1074, 1082 n.8 (11th Cir. 1996)

There are several types of relief that do not violate the constitutional prohibition against suing the state. These exceptions apply only when the litigant names a state employee in his or her

official capacity and seeks relief other than money: **Actions brought to compel state officials to**

perform their legal duties; actions brought to enjoin state officials from enforcing an unconstitutional law; actions to compel state officials to perform ministerial acts; and

actions brought under the Declaratory Judgment Act. *Ross v. Alabama*, 893 F. Supp. 1545 (M.D.

Ala. 1995). (Emphasis added).

Portions of the Plaintiffs' cause of action is in the nature of compelling state officers, sued

in their official capacities, to perform ministerial acts and to perform their legal duties to operate

the Committee in accordance with the 1991 RC Consent Agreement and federal constitutional law

In 1983, the legislature enacted Act No. 83-521, 1983 Ala. Acts 809, which established the State Employees' Liability Insurance Fund ("the Fund"), in order to "provide for the protection of state employees ... for certain wrongful acts or omissions committed while in the

performance of their official duties in the line and scope of their employment through the purchase

of liability insurance or through the self-insurance of the several state departments, agencies,

boards or commissions." (Codified at Ala. Code 1975, § 36-1-6.1.) *Strength v. Alabama Department of Finance*, 622 So2d 1283 (S.Ct. 1993)

"(d) 'Insured' means any person employed, appointed, elected, hired or allowed to assume a temporary or permanent position or office in or with the State of *Alabama* or any of its departments, bureaus, offices, agencies, authorities, or boards. *Strength v. Alabama Department*

of Finance, 622 So2d 1283 (S.Ct. 1993)

Defendants Riley, Troy King, Page Walley are employees of the State of Alabama and are covered under the Fund

The Defendants' actions violate "clearly established statutory or constitutional rights of which a reasonable person would have known." Thus, all of the Defendants are NOT entitled to

invoke the defense of qualified immunity in their individual capacities.

Defense of qualified immunity does not apply to allegations of bad faith and fraud; likewise, it does not apply to actions against state officials in their official capacity based on acts

committed beyond their authority. *Nance ex rel. Nance v Matthews* 622 So. 2d 297 (Ala. 1993).

The Court should find that Defendants Houston, Gosa, Helms, Jackson and Maddox deliberately and intentionally violated the 2003 Agreement in a number of respects. The Court

Our supreme court in 1991 addressed the doctrine of sovereign immunity in *State Highway Dep't v. Milton Construction Co.*, 586 So. 2d 872 (Ala. 1991). In *Milton* our supreme

court held that a construction company's suit was not barred by the **doctrine of sovereign immunity**, because it was in the nature of an action to compel a state officer to **perform a legal**

duty. Black's Law Dictionary (5th ed.) defines the term "legal duty" as "an obligation arising from

contract of the parties or the operation of the law. . . ." *State Dept. of Human Resources v. Kelly*, 623 So2d 738 (Civ. App. 1993)

Where court order provided that State Department of Human Resources was to pay to former wife \$175 and the state \$25 of each \$200 payment from former husband, until the state

was fully reimbursed for \$728 in Aid to Dependent Children (ADC) benefits it had previously paid

to former wife, former wife's action against DHR was not barred by sovereign immunity. When

DHR refused send \$175 to former wife from a \$200 payment, it failed and **refused to perform a**

legal duty lawfully imposed upon it by the trial court's order. This case fell under the recognized

"legal duty" exception to the protection afforded the state or its agencies. *State Dep't of Human*

Resources v. Kelly, 623 So. 2d 738 (Ala. Civ. App. 1993).

Qualified Immunity

After two (2) years of litigation in federal court, unknown "attempted" federal lawsuits, a settlement agreement [The RC. Consent of 1991] and a federal court order

the Defendants now claim ignorance of the law and that they did not know their actions would violate clearly established statutory or constitutional rights of which a reasonable person would have known.

When a violation of a fundamental right is so obvious that no half-way intelligent public official could conclude in good faith that his proposed action is constitutional, a public official

who does it anyway cannot claim qualified immunity; the purpose of qualified immunity is to

protect government officials from liability for conduct they could not reasonably have known was

unlawful. *Skurstenis v. Jones*, 236 F.3d 678 (11th Cir. 2000).

Under qualified immunity analysis, the public official must first prove that he was acting within the scope of his discretionary authority when the allegedly unconstitutional acts took place.

See Courson v. McMillian, 939 F.2d 1479, 1487 (11th Cir. 1991). . . . The Defendants' Brief in

Support of Motion to Dismiss is completely void of any evidence or statements that prove the

Defendants were acting within the scope of their discretionary authority when the allegedly

unconstitutional acts took place. The cursory reference in the Defendants' Brief that, "It is clear

from Plaintiffs' Complaint that all of Defendants' actions (and alleged actions) were done within

the scope of each Defendant's respective discretionary authority," is wholly insufficient to establish evidence or proof of discretionary acts.

Once the public official has established that he was acting within the scope of his discretionary authority, the burden shifts to the plaintiff to establish that qualified immunity does not apply. *See Lee v. Ferraro*, 284 F.3d at 1194. . . . *Storck v. City of Coral Springs*, 354 F.3d

1307, 1313-14 (11th Cir. 2003).

"Discretionary acts" have been defined as "those acts [as to which] there is no hard and fast rule as to course of conduct that one must or must not take" and those requiring "exercise in judgment and choice and [involving] what is just and proper under the circumstances." *Black's Law Dictionary* 467 (6 ed. 1990) *Faulkner v. Patterson*, 650 So.2d

th 873, (S.Ct.1994).

1991 > The ~~1995~~ Agreement, ¶4(a-c) are commands and therefore not discretionary. All three paragraphs begin with, "The Defendants **"shall."** (emphasis added) The word "shall," as used in

the 2003 Agreement, ¶4(a) is clear and unambiguous and is imperative and mandatory.

Ex. Parte

Looney, (S.Ct. 2001).

Alabama law defines the word "shall" as follows:

"As used in statutes, contracts, or the like, this word is generally imperative or

mandatory. In common or ordinary parlance, and in its ordinary signification, the term "shall" is a word of command, and one which has always [been given] or which must be given a compulsory meaning, as denoting obligation. The word in ordinary usage means "must" and is inconsistent with a concept of discretion." *Ex Parte Looney*. (S.Ct 2001), quoting *Ex parte Prudential Ins.*

Co of America. (721 So2d 1135, S.Ct. 1998).

It is clear from Plaintiffs' Verified Complaint that all of Defendants' alleged actions were outside the scope of each Defendant's respective discretionary authority.

The next "5" pages is what I hope
is the proper "layout". Believe me, I am

Trying my best.

again
Good Luck with you and
yours. God Bless



Karl Kertz.

Aug 18th 2007

attachment To

①

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA**

Cause No.: 2:07 -cv- 00641 -WHA -WC

Karl Lentz,

as a Trustee - and as his attorney-in-fact.

Sui Juris in Propria Persona

"In my own flesh and blood."

"one not under the control of another."

Plaintiff-Petitioner,

IVOR. D. GROVES, ^{v.} *middle District of Alabama*
"Re. Consent monitor"

~~THE ALABAMA DEPARTMENT OF HUMAN~~
~~RESOURCES~~

PAGE WALLEY & GOV. BOB RILEY

**THE ALABAMA DEPARTMENT OF HUMAN
RESOURCES,**

Acting in behalf of the Federal Government

& / or

**THE FEDERAL BUREAU OF
INVESTIGATION**

& / or

The State of ALABAMA,

Et-al.

Defendant-Respondent.

This is just a
"sample" of my own
personal complaint/story

The lawsuit I
submitted
was to be considered
a "Class Action"
Basically with just "all"
The technical aspects
covered.

Falsifying evidence and submitting false evidence to Federal and state agents and state courts Verified Complaints for Patterns of: Denials and Violations of Civil Rights, Neglect to Prevent the Same, Willful Discrimination, Disparate Taxation, and Reckless or Negligent Government Mismanagement; and, Verified Petition for Damages and Certain Remedial Actions, Willful Failure to Provide Due Process of Rights. Willful and Malicious Prosecution, Libel and Slander, which led to Denial of Lawful Property.

(‘Forum Non Conveniens’)

(Request for Three-Judge Panel)

(Demand for Jury Trial)

Comes now the principal Plaintiff-Petitioner, Karl R. Lentz, individually, alleges, states, and submits the following;

For Declaratory and an Emergency Injunctive Relief - the Defendants in conspiring;

A). The Federal Government's Probation Office/ ^{Court appointed} Monitor

1). In the UNITED STATES District Court for Middle Alabama, ^{Ivor D. Groves, Ph.D.} ~~Igor~~ _____

agent acting under the authority of Middle district Judge ^{and} ~~Ira DeMent~~, in behalf of
the settlement/Decree of 1991, known as the RC.Consent Decree. ^{Judge Truman M Hobbs}

a). For failure to monitor, The State of Alabama's DHR

~~b). For failure to train. Agents Working in The Alabama's DHR~~

(B). The ALABAMA DEPARTMENT OF HUMAN RESOURCES; referring to The Department of Human Resources, State as; "DHR"

1). The Department of Human Resources of Alabama is;

a). The "Acting" agents, acting in behalf of the Federal Government as per The Consent Decree agreement of 1991 and the amendment to the CODE of ALABAMA 1975 "38-6-2 (5)". in November of 1991 CODE # "38-6-2 (5)". Made the ALABAMA DEPARTMENT OF HUMAN RESOURCE workers/employees "Acting Federal Agents". Which will NOT give them 11th amendment immunity.

1). Field Case Workers; also "Acting Federal Agents". Deidre March, Lisa Brown (Jefferson County)

2). Field Case Worker's Supervisors; also "Acting Federal Agents". Tenisha Felton, Kim Mishego in their official and individual capacities for failure to train and discipline and monitor (Jefferson county)

3). Administrative Agents; also "Acting Federal Agents". PAGE WALLEY, Acting Director, in his official and individual capacities for failure to train and discipline and monitor (Montgomery)

4). Executive Agents;

a). Governor Bud Siegelman, now acting Governor Bob Riley; Officially recognized as the Head of the Department of Human Resources in the State of Alabama. Making them "Acting Federal Agents" as well.

(C). THE FEDERAL BUREAU OF INVESTIGATION

1). THE FBI;

a). Kathleen Borden, in her official capacity as head of the "white collar criminal division" in Northern Alabama's Birmingham field office for failure to notify a Federal Judge of Federal felonies being committed by the State of Alabama, to citizen's of another state and for federal felonies being committed by fellow Federal "Acting Agents" through the DHR of Alabama.

(D). The State of Alabama; referring to the State as;

1). Judicial Court System

a). Alabama Supreme Court;

(i).CHIEF JUSTICE NABERS, in his official capacities, for failure to train, monitor, and discipline.

(ii). William Herford in his official capacities, given to him by the Alabama Supreme Court Appointed Circuit Judge Appointed to hear/preside over this "Special Case"

a). The Judge appointed, also in violation denial of Federally Guaranteed Rights, to DUE PROCESS

b). STATE OF ALABAMA OFFICE OF THE ATTORNEY GENERAL,

(i). STATE ATTORNEY GENERAL, TROY KING, in his official capacities for failure to train, monitor, and discipline.

(ii).ASSISTANT STATE ATTORNEY GENERAL, JONATHON S. SCHLENKER, in his official and individual capacities; for malicious prosecution, for perjury by knowingly submitting false evidence under oath to a State Court, and Ethical code violations by continuing a case when they was "NO" sign of wrong doing or "winning"

c). THE ALABAMA 10TH CIRCUIT COURT, BIRMINGHAM

(i). CHIEF JUDGE VOWELL, in his official and individual capacities;

d). ALABAMA TENTH 10TH CIRCUIT COURT FAMILY DIVISION a.k.a.. JEFFERSON COUNTY FAMILY COURT, and

(i). CHIEF JUDGE SANDRA STORM, in her official and individual capacities;

(ii). REFEREE JUDGE ANDRE SPARKS, in his limited official and individual capacities;

These agents acting within the borders of the State, known as ALABAMA, in The United States of America, who are regulated and monitored throughout their Probationary Period (known as the RC. Consent Decree of 1991). For prior violations to other citizen's civil-rights within their borders by the Federal 11th District Court in Montgomery, Alabama. Although on probation for over "15" years, still in the guise of "Color of Law", these Alabamian's elected officials, employees, and contractors, are continuing to alienate, to deny, U.S. citizens accessibility to Due Process in Alabama State Courts, and in so doing, depriving U.S. citizens guaranteed RIGHTS to LIBERTY, JUSTICE and to their INHERENT and INALIENABLE PROPERTY as well.

A. Introduction and Nature of the Case

1. This is a multi-grounded civil rights action at law, at common law, and also in equity, to

vindicate and restore various rights of the Plaintiff's secured under federal law, to

vindicate and

restore their various inalienable rights guaranteed under certain portions of, and several Amendments to, the United States Constitution, and for the Plaintiff to claim all rights,

damages, and forms of relief obtainable under any available means, in the interests of justice, and through the authority and supplemental jurisdiction vested in this Court by 28 USC § 1367, and

also through Article III of the United States Constitution, if and as necessary.

2. In no way, shape, or form, do or will the Plaintiff claim or assert, either expressed or

implied, any manner of rights or interests alluding to any aspect of controversy under any state

law, whatsoever, excepting only that a matter must be fairly characterized as an act, practice, or